

902 KAR 45:065. Tattooing.

RELATES TO: KRS Chapter 13B, 211.005, 211.015, 211.025, 211.760, 29 C.F.R. 1910.1030

STATUTORY AUTHORITY: KRS 194A.050, 211.760(3)

NECESSITY, FUNCTION AND CONFORMITY: KRS 211.760(2) requires nonmedical persons who engage in or carry on any business of tattooing to register with a local health department. KRS 211.760(3) requires the Cabinet for Health Services to promulgate administrative regulations relating to: (a) health and cleanliness of places of business; (b) sterilization of tattooing instruments and equipment; (c) procedures to prevent the spread of disease; (d) Procedures to prevent tattooing of minors without the written notarized consent of a custodial parent or legal guardian; and (e) Other administrative regulations as may be necessary to protect public health. This administrative regulation establishes the standards required by KRS 211.760(3).

Section 1. Definitions. (1) "Antiseptic" means a substance applied to the skin that reduces the number of microorganisms.

(2) "Autoclave" means equipment sold as sterilizing equipment for medical instruments and employs steam under pressure to sterilize.

(3) "Blood" means human blood or any human body fluid or tissue that is visibly contaminated with blood.

(4) "Bloodborne pathogen(s)" means the pathogenic microorganisms that are present in human blood that can cause disease in humans such as Hepatitis B (HBV), Hepatitis C (HCV), and human immunodeficiency virus (HIV).

(5) "Contaminated" means the presence of or reasonably expected presence of blood or other potentially-infectious material in or on the surface of an item.

(6) "Contaminated sharps" means any contaminated object that can penetrate the skin such as tattoo needles and razors.

(7) "Contaminated waste" means any material to be disposed of that has been soiled by blood or other potentially-infectious material in the process of tattooing.

(8) "Hand washing" means the following process:

(a) Wetting hands and forearms with warm running water, 101 - 120°F;

(b) Applying antibacterial or antimicrobial soap and thoroughly distributing over hands and forearms;

(c) Rubbing hands vigorously for twenty (20) seconds, covering all surfaces of the hands, forearms and fingers, paying special attention to the thumbs, backs of fingers, backs of the hands, and between the fingers;

(d) Rinsing hands and forearms thoroughly to remove residual soap; and

(e) Drying hands and forearms with paper towels dispensed from sanitary dispensers.

(9) "Health care professional" means a physician, physician assistant, nurse, doctor of chiropractic, mental health professional, optometrist, dentist, or allied health professional who is licensed in Kentucky.

(10) "High-level disinfection" means the elimination of pathogenic microorganisms except for bacterial spores from inanimate objects, rendering them safe to handle.

(11) "Instrument" means any tattooing implement that comes into contact with blood or non-intact skin such as needles, needle bars, needle tubes, or other implements used to insert pigment.

(12) "Minor" is defined at KRS 387.010(1).

(13) "Mobile studio" means a tattooing studio that is designed to be readily movable.

(14) "Nonintact skin" means human skin that has an open wound from a cut, burn, rash, infection, or any other condition that has altered the skin.

(15) "Purchased presterilized" means procedure set-ups that are sold individually packaged, processed, and marked with a sterilization lot number, to render them free of all microorganisms.

(16) "Registrant" means the individual duly authorized to engage in the business of tattooing.

(17) "Registration" means the issuance of a document by the local health department to a tattoo artist authorizing the tattoo artist to engage in the business of tattooing.

(18) "Regulated waste" means waste as defined by the Department of Labor, OSHA, Blood-borne Pathogens Regulation, 29 C.F.R. 1910.1030 and incorporated by reference in 803 KAR 2:320.

(19) "Sanitize" means a bactericidal treatment to clean surfaces of equipment, approved by the local health department for being effective in destroying microorganisms, including pathogens, to a safe level.

(20) "Sterilization" means the use of an autoclave to kill microbial life by holding instruments and equipment under steam pressure for a minimum of fifteen (15) minutes, at fifteen (15) pounds of pressure, at a temperature of 250°F or 121°C.

(21) "Studio" is a facility as defined by KRS 211.760(1)(b).

(22) "Studio certification" means the issuance of a document by the local health department to a studio owner certifying that studio, after inspection, was in compliance with the applicable provisions of this administrative regulation.

(23) "Studio owner" means:

(a) An owner of a facility where tattooing is conducted; or

(b) A sole proprietor who performs tattooing; or

(c) A person who employs tattoo artists.

(24) "Tattoo artist" means a person registered by the local health department.

(25) "Temporary studio" means a facility setup that operates no more than seven (7) days in a ninety (90) day period.

Section 2. Registration. (1) An applicant shall be at least eighteen (18) years of age at the time of application.

(2) Pursuant to KRS 211.760(2), a person shall not act as or engage in the business of tattooing unless registered with the local health department in the district or county where the person is to tattoo.

(3) An applicant for registration for tattoo artists shall submit a completed Application Form, DFS-303, incorporated by reference, to the local or district health department in the district or county where the applicant intends to perform tattooing.

(4) Pursuant to KRS 211.760(2), payment of the registration fee shall be made to the local or district health department where the applicant intends to tattoo.

(5) The tattoo registration shall be mailed to the owner of the Kentucky-certified studio listed on the application for registration.

(6) All tattooing shall be under the auspices of a Kentucky-certified studio.

(7) A registrant shall post his registration document prominently at his workstation.

(8) A registration is nontransferable from one (1) person to another, or from one (1) district or county to another.

(9) Applicants for registration must be eighteen (18) years of age or older at the time of registration.

(10) Pursuant to KRS 211.760(2), registrations shall expire one (1) year from the date of is-

suance.

Section 3. Studio Certification. (1) A person shall not engage in the business of tattooing unless the owner of the facility holds a studio certification issued by the local health department in the district or county where the person is to tattoo.

(2) A studio certification shall not be issued or renewed unless the studio has been inspected and found to be in compliance with the provisions of this administrative regulation.

(3) A studio certification shall be required for each district or county in which a registrant performs any activity regulated by this administrative regulation.

(4) The studio certification shall be prominently displayed to the public in the studio.

(5) A studio certification is nontransferable from one (1) person to another, or from one (1) location to another.

(6) A holder of a studio certification issued under this administrative regulation shall not allow persons to tattoo unless registered in accordance with Section 2 of this administrative regulation.

(7) Payment of an annual inspection fee of \$100 shall be made to the local health department in the district or county where the person is to tattoo.

(8) Applications for studio certification shall be submitted to the local health department on application form DFS-200, incorporated by reference.

(9) The studio certification shall expire one (1) year from the date of issuance.

Section 4. Facility Requirements. (1) A facility shall:

(a) Be kept clean and in good repair;

(b) Be free of insect and rodent infestation;

(c) Store only items necessary to its operation and maintenance;

(d) Provide artificial light of at least twenty (20) foot-candles, measured at a height of thirty-six (36) inches from the floor;

(e) Be well ventilated;

(f) Not permit the presence of a pet or other animal, except for:

1. A trained guide or assistance animal for the disabled; and

2. Fish in an aquarium in the waiting area;

(g) Not use a room otherwise used as living or sleeping quarters;

(h) Use a solid, self-closing door to separate living or sleeping quarters from the business operation;

(i) Have an entrance allowing direct entry into the facility, except for a facility existing on the effective date of this administrative regulation which is exempt from this requirement;

(j) Have convenient, clean, and sanitary toilet and hand-washing facilities for the use of clientele;

(k) Be organized to keep clean areas separate from contaminated areas;

(l) Use only a utility sink to:

1. Clean contaminated instruments; and

2. Empty mop water, without placing the mop bucket into the sink;

(m) Use, clean, and maintain equipment according to manufacturers' recommendations;

(n) Use a hard surface high-level EPA registered disinfectant; or

1. A solution of five and one-fourth (5.25) percent chlorine bleach, fifty (50) parts per million to 100 parts per million; and

2. A chlorine test kit to test concentration;

(o) Have plumbing sized, installed, and maintained in accordance with the Kentucky State Plumbing Code, 815 KAR Chapter 20;

- (p) Have an adequate potable water supply from:
 - 1. A public or municipal water district, if available; or
 - 2. A private water source approved by the Cabinet for Natural Resources and Environmental Protection, until a public water supply becomes available; and
- (q) Dispose of sewage by connection to:
 - 1. A public sewer system, if available; or
 - 2. A private sewer system designed, constructed, and operated pursuant to the requirements of the Cabinet for Health Services or the Cabinet for Natural Resources, until a public sewer system becomes available.
- (2) A workstation shall:
 - (a) Have light-colored, smooth, easy-to-clean floors, walls, and ceilings;
 - (b) Have surfaces, including counters, cabinets, chairs, and dispensers, composed of light-colored, smooth, nonporous material able to withstand repeated cleaning and disinfecting, except for a facility existing on the effective date of this administrative regulation which is exempt from the color requirement;
 - (c) Have at least sixty (60) square feet of floor space with a minimum of one half (1/2) walls between workstations;
 - (d) Have 100 foot-candles of light at the procedure level;
 - (e) Have unimpeded access to a hand sink, without opening a door;
 - (f) Have a sink for each artist with hot water at least 120°F and cold water less than 101°F, delivered by a mixing faucet, operated by wrist, knee, or foot action;
 - 1. Each sink shall be supplied with:
 - a. Liquid soap; and
 - b. Single-use paper towels dispensed from a sanitary dispenser; and
 - 2. A hand sink shall not be used for any other purpose;
 - (g) Be designated as a tattoo workstation, and shall not be used for any other purpose;
 - (h) Have lined plastic or metal waste receptacles; and
 - (i) Have a container for disposable sharps that:
 - 1. Is rigid, puncture proof, and leak proof on sides and bottom;
 - 2. Is closeable and sealable; and
 - 3. If sealed, is leak resistant and incapable of being opened without great difficulty.

Section 5. Cleaning and Sterilization. (1) A facility may have a one (1) room or two (2) room cleaning and sterilization arrangement.

- (a) A two (2) room arrangement shall have:
 - 1. One (1) room for contaminated items, equipped with a utility sink with minimum dimensions of 18 in. x 18 in. x 12 in., a presoak container, ultrasonic cleaning unit, and autoclaving packaging materials; and
 - 2. A second room for sterilization of instruments and equipment.
- (b) A one (1) room cleaning and sterilization process shall be arranged to provide two (2) distinct areas. The ultrasonic unit shall be as far away as possible from the autoclave to prevent contamination of sterile instruments, equipment, or other items. The cleaning area shall be equipped with a utility sink with minimum dimensions of 18 in. x 18 in. x 12 in., a presoak container, ultrasonic cleaning unit, and autoclaving packaging materials. Nonporous barriers may be utilized to delineate the two (2) distinct areas.
- (2) All instruments shall be disposable or be made of surgical implant stainless steel and shall not have rubber gripping on the handles.
- (3) Instruments shall be processed as follows:
 - (a) Soak used instruments in a covered container of cool water with or without detergent un-

til cleaned and sterilized;

- (b) Use disposable, single-use gloves, such as examination or surgical gloves;
- (c) Prepare the ultrasonic cleaner according to manufacturer's instructions;
- (d) Take instruments apart and rinse in warm water;
- (e) Load the ultrasonic cleaner and process according to manufacturer's recommendations, disposing of the ultrasonic cleaner liquid after each use;
- (f) Wearing examination gloves, remove instruments from the ultrasonic cleaner, rinse with clean water, and dry with a clean, lint-free towel, or allow to air dry; and
- (g) Store cleaned instruments in a labeled, covered container until packaged for sterilization.

(4) Sterilization equipment. Equipment used to sterilize instruments shall meet the following requirements:

- (a) The equipment was sold as sterilizing equipment for medical instruments; and
 - (b) The equipment is used, cleaned, and maintained to manufacturer's instructions; and
 - (c) The equipment meets the minimum requirements in the definition of "sterilization".
- (5) Needles or other reusable instruments placed in contact with skin that is tattooed shall be cleaned and sterilized. Disinfection shall not be used in place of cleaning and sterilization. Liquid sterilants shall not be used for sterilization of reusable instruments.

(6) Instrument sterilization. Instruments that touch nonintact skin, shall be sterilized as follows:

- (a) Use clean disposable, single-use surgical or examination gloves;
- (b) Package cleaned instruments individually in paper or plastic, or paper-and-plastic, peel-pack(s) with color (heat) change indicator(s); or package as set-ups with color change indicator;
- (c) Label with content, date, and preparer's initials;
- (d) Load the sterilizer and process according to the manufacturer's directions;
- (e) Remove the items when cool and dry;
- (f) Store the items in a clean, dry, labeled container, cabinet or other place that is protected from dust and contamination; and
- (g) Sterilized instruments shall be resterilized at intervals of no more than six (6) months from the date of the last sterilization.

(7) Sterilization equipment monitoring.

- (a) Sterilization equipment shall be tested during the initial installation, after any major repair, and at least monthly by using a commercial biological monitoring system; and
- (b) Biological indicator test results for each sterilization unit used in the studio shall be kept on site, and made available for inspection at time of inspection.

(8) Sterilizer recordkeeping. A sterilizer log system shall be maintained for each sterilizer in the studio. For each sterilization cycle the following information shall be documented:

- (a) Date of load;
- (b) Lot number;
- (c) Practitioner's name;
- (d) The general contents of the load;
- (e) The exposure time and temperature or the sterilizer recording chart or tape; and
- (f) The results of the chemical indicator.

Section 6. Studio Owner Responsibilities. The owner of a certified studio shall:

- (1) Exclude any tattoo artist while infected with a disease in a communicable form that can be transmitted by blood or who is a carrier of organisms that cause disease or while infected with a boil, an infected wound, or an acute respiratory infection;
- (2) Receive, review and distribute tattoo artist registrations issued for employees of the certi-

fied studio. If the artist is no longer employed by the certified studio, the registration shall be returned to the district or local health department where the certified studio is located;

(3) Continuously maintain a record of all persons performing any activity within the studio that is regulated by the cabinet. The record shall include at a minimum the following information:

- (a) Full name;
 - (b) Date of birth;
 - (c) Home address;
 - (d) Home phone number;
 - (e) Email address if available;
 - (f) Photograph of tattoo artist; and
 - (g) Complete description of all tattooing procedures performed by the tattoo artist;
- (4) Maintain a current copy of this administrative regulation at the studio for use by tattoo artists;

(5) Maintain a minimum of twenty-four (24) sets of sterilized needles and tubes for each artist;

(6) Not resterilize or reuse single-use, disposable components; and

(7) If presterilized, disposable instruments are utilized, the following records shall be maintained in accordance with Section 8(6) of this administrative regulation and shall be made available at all times to the local health department:

(a) An accurate inventory of all purchased presterilized instruments by name with the date purchased and the quantity on hand; and

(b) Invoices for the purchase of all purchased presterilized instruments.

Section 7. Client Restrictions. (1) A written notarized consent, with an official seal and with the signature of a custodial parent or legal guardian, shall be obtained for all minors prior to application of a tattoo.

(2) Tattooing shall not be applied on skin which has a rash, pimples, evidence of infection, open lesions, mole, sunburn, or manifests any evidence of unhealthy conditions without written clearance by a medical physician licensed by the Kentucky Board of Medical Licensure.

Section 8. Client Information and Records. (1) Before receiving a tattoo, the client shall be provided written information that tattooing poses a risk of infection, that tattooing is permanent and that removal of a tattoo may leave scars.

(2) Before the application of a tattoo, the client shall be provided written and verbal aftercare instructions that includes the following information:

- (a) Information on the care of the site of the tattoo;
- (b) Instructions on possible side effects;
- (c) Information on any restrictions;
- (d) Information on signs and symptoms of infection; and
- (e) Instructions to consult a physician if signs and symptoms of infection such as fever, swelling, redness, or drainage occur.

(3) A record of all clients who have received any tattoos shall be kept by the studio owner. The record shall include the following information:

- (a) Studio name and registration number;
- (b) The date the procedure was performed;
- (c) Client's name, date of birth, address, and telephone number;
- (d) Copy of client's photo ID;
- (e) Name of the tattoo artist who performed the procedure(s);

- (f) The type, location and description of the procedure; and
- (g) Client's attestment to the fact that the client is not intoxicated or under the influence of drugs or alcohol with signature.
- (4) Records of each client shall be typed or printed in ink prior to any procedure being performed.
- (5) All records shall be maintained in a bound log for five (5) years. The current calendar year client, consent and other required records shall be kept at the certified studio and shall be made readily available to inspectors. All records for the previous four (4) years may be maintained off site and shall be made readily available upon request of the cabinet, district or local health department.

Section 9. Disposal of Contaminated Wastes. All wastes produced during the process of tattooing shall be separated for disposal into three (3) classifications as follows:

- (1) Contaminated sharps shall be disposed of by using a licensed medical waste disposal company.
- (2) Regulated waste, as defined by the Department of Labor, Occupational Safety and Health Administration, shall be disposed of in accordance with the bloodborne pathogens regulation 19 C.F.R. 1910.1030 as adopted in Kentucky by 803 KAR 2:320.
- (3) Contaminated waste, other than contaminated sharps and regulated waste, shall be sprayed with a dilution of five and one-fourth (5.25) chlorine bleach, with a range of fifty (50) parts per million to 100 parts per million, double bagged, securely tied and disposed of daily in a trash container that prevents unauthorized access. This material shall be disposed of in an approved site by a general trash hauler.

Section 10. Standard Operating Procedures for Tattooing. The tattoo artist shall follow the procedures listed in this section in preparation for tattooing:

- (1) The tattoo artist and the client shall not eat, drink or smoke in the workstation.
- (2) The tattoo artist shall wash hands and forearms according to Section 1(8) of this administrative regulation prior to and after every procedure.
- (3) The tattoo artist shall wear new clean disposable examination gloves for every client. If a glove is pierced, torn, contaminated in any way, or if there is an interruption in the application of the tattoo, both gloves shall be removed immediately and discarded.
- (4) The tattoo artist shall use a new or disposable lap cloth, drape, or apron for each client. All lap cloths, drapes and aprons shall be stored in a closed cabinet or container until used.
- (5) The tattoo artist shall wear clean clothing. Shirts shall have short sleeves, pants shall be to the ankle in length, and feet shall be completely enclosed in shoes.
- (6) All instruments, equipment and items to be used in the procedure shall be placed on a disposable, plastic backed towel.
- (7) All inks and pigments used in a procedure shall be dispensed from containers in a manner to prevent contamination of the unused portion in the supply bottle and then discarded.
- (8) If a workstation rinse cup is used, alone or in an ultrasonic cleaner, a fresh cup shall be used for each client, and discarded immediately upon completion of the procedure.
- (9) All single-use ointment tubes, applicators and supplies placed on the plastic backed towel shall be discarded immediately after use.
- (10) Inks, dyes or pigments that are prepared by the tattoo artist shall be nontoxic.
- (11) Tattoo needles shall be used once and discarded. If the needlebar is reused, the needlebar shall be cleaned and sterilized before the needles are removed.
- (12) If the tattoo artist uses any reusable components, sterilization equipment meeting the requirements in the definition of "sterilization" shall be required.

(13) All devices used to apply pigments shall be designed to prevent backflow of pigments into the machine.

(14) Position the sharps container and waste receptacle within easy reach.

Section 11. Application of the Tattoo. The tattoo artist shall use the procedure in this section when applying a tattoo:

(1) Disinfect the procedure area and lay out plastic film or a clean, disposable plastic backed towel.

(2) Wash hands and forearms in accordance with Section 1(8) of this administrative regulation.

(3) Position the client comfortably.

(4) Arrange all instruments and supplies to be used in the procedure on plastic film or on a clean, disposable plastic backed towel within easy reach.

(5) Wash hands and forearms in accordance with Section 1(8) of this administrative regulation, and use new, clean examination gloves.

(6) Gently clean the client's skin with soap and water and apply an antiseptic that is appropriate for the area where the tattoo is to be applied. If shaving is necessary, use anew, single-use disposable razor.

(7) Acetate or other reusable stencils shall not be used. Place the design on the skin by one (1) of the following methods:

(a) Free-hand drawing using a new disposable marker; or

(b) Apply a single-use hectographic or tissue stencil using antimicrobial soap or other approved product dispensed from a container in a manner that does not contaminate the unused portion.

(8) Remove gloves, wash hands in accordance with Section 1(8) of this administrative regulation, and use new clean examination gloves.

(9) Open sterile needles in front of the client and place them into the tattoo machine without touching the end of the needles.

(10) Apply the tattoo.

(11) Apply a thin layer of suitable antibiotic cream using a swab or cotton ball and if appropriate, cover the area with a suitable nonstick dressing that is held in place with suitable skin tape. Plastic film shall not be used.

(12) When the tattooing is complete, the tattoo artist shall answer any questions and provide client with written instructions regarding the tattoo and aftercare.

(13) Immediately after the client leaves the workstation, the tattoo artist shall break down the workstation, properly dispose of any sharps, soak any reusable instruments for later cleaning, and clean and disinfect any surface that may have become contaminated.

Section 12. Standard Operating Procedures for a Mobile Studio. (1) The mobile studio shall be registered with the local health department in each district or county in which the studio is operated, and pay the appropriate fees.

(2) The mobile studio shall meet the same requirements as a stationary studio and be inspected by the local health department prior to operation.

(3) All sewage shall be stored in a storage tank with a capacity at least 100 percent greater than the capacity of the on-board potable water, and shall be discharged into a public sewage system.

(4) Any on-board restroom shall be supplied with hot running water at least 120°F and cold running water less than 101°F as in subsection (6) of this section and shall be supplied with toilet paper, antibacterial or antimicrobial soap and single-use paper towels.

(5) If the vehicle lacks an on-board restroom, the owner shall not operate the studio unless it is within 200 feet of a public restroom with hand-washing facilities.

(6) All plumbing shall comply with the requirements of the State Plumbing Code, 815 KAR Chapter 20.

(7) Each mobile studio shall have a potable water system under pressure. The system shall be of sufficient capability to furnish enough hot and cold water for hand washing, instrument cleaning, and sanitization pursuant to the requirements of this administrative regulation. The water inlet shall be located in a position that it will not be contaminated by waste discharge, road dust, oil, or grease, and it shall be provided with a transition connection of a size of or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed in accordance with the State Plumbing Code, 815 KAR Chapter 20. Hoses, if used, shall be food grade, with a backflow prevention device.

(8) Each mobile studio shall have a permanently-installed retention tank that is at least 100 percent larger than the water supply tank. Liquid wastewater shall not be discharged from the retention tank if the mobile studio is in motion. All connections on the vehicle for servicing the mobile studio waste disposal shall be of a different size or type than those used for supplying potable water to the mobile studio. The wastewater connection shall be located below the water connection to preclude contamination of the potable water system.

(9) The vehicle shall be used exclusively for performing tattooing. Habitation, cooking, pets and animals shall not be allowed in the mobile studio.

Section 13. Standard Operating Procedures for a Temporary Studio. (1) The event organizer or studio owner for the event shall be responsible for ensuring that the event is run in a manner that is safe for the tattoo artists and the general public. The event organizer or studio owner shall provide a list of all tattoo artists participating in the event to the local health department in the district or county where the event is being held that includes the following information for each participating tattoo artist:

- (a) Name of exhibitor/tattoo artist;
- (b) Date of birth;
- (c) Home address;
- (d) Business name;
- (e) Business address;
- (f) Home and work telephone numbers;
- (g) Email address if available;
- (h) Description of procedures to be performed at the event; and
- (i) Copy of current tattoo artist's registration.

(2) The event coordinator or studio owner shall provide a layout of the event floor to the local health department in the district or county where the event is being held showing where the tattoo artists will be tattooing.

(3) Each participant who performs tattooing shall bring enough presterilized instruments and supplies to last for the whole event.

(4) The event coordinator or studio owner shall provide a separate cleaning and sterilization room as a back up for use by participants who have used all of the presterilized instruments and supplies that were brought to the event. If used, the cleaning and sterilization room shall be disinfected at the close of the event. Presterilized disposable instruments and equipment shall not be reused.

(5) The event coordinator or studio owner shall provide an approved autoclave that has certification of a negative spore test within thirty (30) days prior to the event.

(6) The event coordinator or studio owner shall provide for pick-up and disposal of contami-

nated waste in accordance with Section 9 of this administrative regulation.

(7) Temporary studios located at locations such as fairs, festivals, or flea markets, shall comply with all requirements for a certified studio in accordance with Sections 1 through 11 of this administrative regulation in their entirety.

(8) The tattoo artist and the temporary studio shall be registered with the local health department in each district or county in which the studio is operated, and pay the appropriate fees.

(9) The temporary workstation shall meet the following minimum conditions:

(a) Be at least 10 ft. x 10 ft., and be constructed in a manner to separate the tattoo artist from the public in such a way as to protect the procedure area from contamination, and to prevent accidental exposure of the public to potentially-infectious materials created during tattooing;

(b) Have a floor and sides that are smooth, nonporous and easy to clean;

(c) Have at least 100 foot-candles of light available at the level where the tattoo, body piercing or the application of permanent makeup is conducted;

(d) Be equipped with a hand-wash facility. A hand-wash facility at the minimum shall consist of liquid antibacterial or antimicrobial soap, single-use paper towels, and an insulated five (5) gallon container with a lever-type spigot, filled with warm potable water 101 - 120°F, and a bucket to catch the wastewater. The water container shall be placed at least thirty (30) inches off the floor to allow for easy use, and shall be filled regularly to ensure an adequate supply of warm water for hand washing;

(e) Wastewater shall be disposed of into a public sewerage system, if available. If a public sewerage system is not available, disposal shall be made into a private system designed, constructed and operated pursuant to the requirements of the Cabinet for Natural Resources and Environmental Protection administrative regulations 401 KAR Chapter 5 and the Cabinet for Health Services administrative regulations 902 KAR Chapter 10; and

(f) Shall be supplied with an adequate supply of paper or plastic barrier film to protect equipment, pigment supply bottles, and any other item that must be protected to prevent cross-contamination.

Section 14. Inspection of Studios. (1) At least twice per year, the cabinet or the local or district health department shall inspect each studio and shall make as many additional inspections and re-inspections as are necessary for the enforcement of this administrative regulation.

(2) The cabinet or the local or district health department inspector shall record the findings in writing on an inspection report form DFS-342, incorporated by reference and which shall constitute a written notice. The inspection report form shall summarize the requirements of this administrative regulation and shall set forth a weighted point value for each requirement. The rating score of the studio shall be the total of the weighted point value for all violations, subtracted from 100. The inspector shall provide the original of the inspection report to the certificate holder or his designee. The findings shall:

(a) Set forth the specific violations if found;

(b) Establish a specific and reasonable period of time for the correction of the violations specified, pursuant to the following provisions:

1. If the rating score of the studio is eighty-five (85) or more, all violations of one (1) and two (2) point weighted items shall be corrected as soon as possible and before the next routine inspection.

2. If the rating score of the studio is at least seventy (70) but not more than eighty-four (84), all violations of one (1) and two (2) point weighted items shall be corrected as soon as possible and within a period not to exceed thirty (30) days.

3. Regardless of the rating score of the studio, all violations of three (3) or four (4) point weighted items shall be corrected within a time specified by the cabinet and within ten (10) days.

4. If the rating score of the studio is less than seventy (70), the studio shall be issued a notice of intent to suspend the studio certification. The certification shall be suspended within ten (10) days after receipt of the notice unless a written request to an administrative conference is filed with the local or district health department within the ten (10) day period.

(3) Notices provided for under this administrative regulation shall be deemed to have been properly served if the original of the inspection report form or other notice has been delivered personally to the certificate holder or person in charge, or the notice has been sent by registered or certified mail, return receipt requested, to the last known address of the certificate holder.

(4) Failure to comply with any notice issued pursuant to the provisions of this administrative regulation may result in suspension or revocation of the certificate or the individual's registration.

(5) Temporary and mobile studios shall correct any violative conditions within twenty-four (24) hours.

Section 15. Suspension of Certificates or Individual's Registration. (1) If the cabinet or the local or district health department has reason to believe that an imminent public health hazard exists, if the certificate holder or registered individual has interfered with the cabinet or the local or district health department in the performance of its duties or if an inspection of a studio reveals a rating score of less than sixty (60), the certificate or the individual's registration shall be suspended immediately upon notice to the holder. If this occurs, the studio certificate holder or individual registration holder may request an administrative conference in accordance with Section 19(2) of this administrative regulation. The conference shall be granted as soon as practical and before ten (10) days.

(2) In all other instances of a violation of the provisions of this administrative regulation, the cabinet or the local or district health department shall serve on the certificate holder or registered individual a written notice specifying the violation and shall afford the certificate holder or registered individual a reasonable opportunity for correction.

(3) The cabinet or the local or district health department shall notify, in writing, the certificate holder or registered individual who fails to comply with a written notice issued under the provisions of this section, that the certificate or individual's registration shall be suspended at the end of ten (10) days following service of this notice unless a request for an administrative conference is requested.

Section 16. Reinstatement of Suspended Certificates or an Individual's Registration. A person whose certificate or registration has been suspended may, at any time, make application for a reinspection for the purpose of reinstatement of the certification or registration. The application for reinstatement shall be submitted on Form DFS-215, provided by the cabinet. Within ten (10) days following receipt of an Application for Reinstatement, the cabinet or the local or district health department shall make a reinspection. If the applicant is found to comply with the requirements of this administrative regulation, the certificate or individual's registration shall be reinstated.

Section 17. Revocation of a Certificate or an Individual's Registration. For serious or repeated violations of any of the requirements of this administrative regulation, or for interference with agents of the cabinet or the local or district health department in the performance of its du-

ties, a certificate or an individual's registration may be permanently revoked. Prior to this action, the cabinet or the local or district health department shall notify the certificate holder or registered individual, in writing, stating the reasons for which the certification or registration is subject to revocation and advising that the certification or registration shall be permanently revoked at the end of ten (10) days following service of the notice, unless a request for an administrative conference is filed with the cabinet by the certification or registration holder within the ten (10) day period. A certification or registration may be suspended for cause pending its revocation or an administrative conference relative to the revocation.

Section 18. Appeals. (1) A certificate or registration holder or an applicant aggrieved by a decision of the cabinet or local or district health department may request either an administrative conference or an administrative hearing. The request shall be submitted within ten (10) days of receipt of a written notice of:

- (a) A violation;
 - (b) Suspension or revocation of a certificate or individual's registration;
 - (c) Denial to renew a certificate or individual's registration; or
 - (d) Denial of an initial application for a certificate or individual's registration.
- (2) Administrative conference. An administrative conference shall be conducted in accordance with 902 KAR 1:400, Administrative hearings, with the following exceptions:
- (a) The administrative conference shall be less formal than an administrative hearing;
 - (b) The matter at issue shall be discussed before a representative of the Department for Public Health or the local or district health department; and
 - (c) Participants in the discussion shall be:
 - 1. An agent of the cabinet or the local or district health department; and
 - 2. The certificate holder, individual registered, or the applicant;
 - (d) A request for a conference shall be:
 - 1. In writing; and
 - 2. Submitted or addressed to the local or district health department that issued or gave notice of the violation, suspension, or revocation; and
 - (e) A certificate or registration holder or an applicant who does not agree with final ruling of the conference report issued by the local or district health department may appeal by requesting an administrative hearing.
- (3) Administrative hearing.
- (a) Conduct of the administrative hearing shall be pursuant to 902 KAR 1:400, Administrative hearings and KRS Chapter 13B; and
 - (b) A request for an administrative hearing shall be:
 - 1. In writing;
 - 2. Submitted or addressed to the Commissioner, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621; and
 - 3. Accompanied by a copy of the notice of violation, notice to suspend or revoke, letter denying an application, or the conference hearing report.

Section 19. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) DFS-200, Application for Studio Certification (Rev. 7-01);
- (b) DFS-303, Application for Registration (Rev. 7-03);
- (c) DFS-342, Tattoo, Studio Inspection Report (Rev. 6-03);
- (d) DFS-214, Enforcement Notice (Rev. 8-96);
- (e) DFS-212, Request for Conference (Rev. 10-96);

(f) DFS-213, Notice of Conference (Rev. 8-96); and

(g) DFS-215, Application for Reinstatement (Rev. 2-95).

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department for Public Health, Division of Public Health Protection and Safety, Food Safety Branch, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m. (30 Ky.R. 1712; Am. 1931; eff. 2-16-2004.)